

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 475

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO MOTOR VEHICLES; ESTABLISHING PENALTY ASSESSMENTS
FOR VIOLATION OF PROVISIONS OF THE MANDATORY FINANCIAL
RESPONSIBILITY ACT; CLARIFYING PROCEDURES FOLLOWING THE
ISSUANCE OF A CITATION FOR VIOLATION OF THE MANDATORY FINANCIAL
RESPONSIBILITY ACT; ALLOWING LAW ENFORCEMENT OFFICERS TO VERIFY
FINANCIAL RESPONSIBILITY BY CHECKING COMPUTER DATABASES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-5-201.1 NMSA 1978 (being Laws 1983,
Chapter 318, Section 2, as amended) is amended to read:

"66-5-201.1. PURPOSE.--The legislature is aware that
motor vehicle accidents in New Mexico can result in
catastrophic financial hardship. The purpose of the Mandatory
Financial Responsibility Act is to require residents of New
Mexico who own and operate motor vehicles upon the highways of

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1 the state either to have the ability to respond in damages to
2 accidents arising out of the use and operation of a motor
3 vehicle or to obtain a motor vehicle insurance policy."

4 Section 2. Section 66-5-205 NMSA 1978 (being Laws 1983,
5 Chapter 318, Section 6, as amended) is amended to read:

6 "66-5-205. VEHICLE MUST BE INSURED OR OWNER MUST HAVE
7 EVIDENCE OF FINANCIAL RESPONSIBILITY--PENALTIES.--

8 A. No owner shall permit the operation of an
9 uninsured motor vehicle, or a motor vehicle for which evidence
10 of financial responsibility as was affirmed to the department
11 is not currently valid, upon the streets or highways of New
12 Mexico unless the vehicle is specifically exempted from the
13 provisions of the Mandatory Financial Responsibility Act.

14 B. No person shall drive an uninsured motor
15 vehicle, or a motor vehicle for which evidence of financial
16 responsibility as was affirmed to the department is not
17 currently valid, upon the streets or highways of New Mexico
18 unless ~~[he]~~ the person is specifically exempted from the
19 provisions of the Mandatory Financial Responsibility Act.

20 C. For the purposes of the Mandatory Financial
21 Responsibility Act, "uninsured motor vehicle" means a motor
22 vehicle for which a motor vehicle insurance policy meeting the
23 requirements of the laws of New Mexico and of the secretary, or
24 a surety bond or evidence of a sufficient cash deposit with the
25 state treasurer, is not in effect ~~[or a surety bond or evidence~~

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1 ~~of a sufficient cash deposit with the state treasurer].~~

2 D. The provisions of the Mandatory Financial
3 Responsibility Act requiring the deposit of evidence of
4 financial responsibility as provided in Section 66-5-218 NMSA
5 1978, subject to certain exemptions, may apply with respect to
6 persons who have been convicted of or forfeited bail for
7 certain offenses under motor vehicle laws or who have failed to
8 pay judgments or written settlement agreements upon causes of
9 action arising out of ownership, maintenance or use of vehicles
10 of a type subject to registration under the laws of New Mexico.

11 E. Any person who violates the provisions of this
12 section ~~[is guilty of a misdemeanor and upon conviction shall~~
13 ~~be sentenced to a fine not to exceed three hundred dollars~~
14 ~~(\$300)]~~ commits a penalty assessment misdemeanor for which the
15 penalty assessment is provided in Section 66-8-116 NMSA 1978."

16 Section 3. Section 66-5-205.1 NMSA 1978 (being Laws 1989,
17 Chapter 214, Section 1, as amended) is amended to read:

18 "66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO
19 BE FOLLOWED AT TIME OF [~~ACCIDENT~~] CITATION--SUBSEQUENT
20 PROCEDURES--INSURER NOTIFICATION REQUIREMENTS--SUSPENSION
21 PROCEDURES.--

22 A. When a law enforcement officer issues to a
23 driver ~~[who is involved in an accident]~~ a citation for failure
24 to comply with the provisions of the Mandatory Financial
25 Responsibility Act, the law enforcement officer shall at the

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1 same time:

2 (1) issue to the driver cited a temporary
3 operation sticker that indicates the motor vehicle is in
4 violation of the Mandatory Financial Responsibility Act, valid
5 for thirty days after the date the sticker is issued, and
6 forward by mail or delivery to the department a duplicate of
7 the issued sticker; and

8 (2) remove the license plate from the vehicle
9 and send it with the duplicate of the sticker to the
10 department or, if it cannot be removed, permanently deface the
11 plate.

12 B. The department shall return or replace, in its
13 discretion, a license plate removed under the provisions of
14 Paragraph (2) of Subsection A of this section or replace a
15 license plate defaced under that paragraph when the person
16 cited for failure to comply with the provisions of the
17 Mandatory Financial Responsibility Act furnishes proof of
18 compliance to the department and pays to the division a
19 reinstatement fee of twenty-five dollars (\$25.00). If a person
20 to whom the temporary operation sticker is issued furnishes to
21 the department, within fifteen days after the issuance of the
22 sticker, evidence of financial responsibility in compliance
23 with the Mandatory Financial Responsibility Act and in effect
24 on the date and at the time of the issuance of the sticker, the
25 department shall replace or return the license plate and waive

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1 the twenty-five-dollar (\$25.00) reinstatement fee.

2 C. The secretary shall adopt and promulgate rules
3 prescribing the form and use of the sticker required to be
4 issued under Subsection A of this section.

5 D. The secretary shall adopt and promulgate rules
6 requiring insurance carriers to report canceled, terminated and
7 newly issued motor vehicle insurance policies each month to the
8 department. Information pertaining to each motor vehicle shall
9 be made a part of that vehicle file for one year.

10 E. Within ten days of notification by the insurance
11 carrier of a termination or cancellation of a motor vehicle
12 insurance policy, the department shall demand satisfactory
13 evidence from the owner of the motor vehicle that [~~he~~] the
14 owner meets the requirements of the Mandatory Financial
15 Responsibility Act. Failure to provide evidence of financial
16 responsibility within twenty days after the department has
17 mailed its demand for proof:

18 (1) constitutes reasonable grounds to believe
19 that a person is operating a motor vehicle in violation of the
20 provisions of Section 66-5-205 NMSA 1978; and

21 (2) requires the department to suspend the
22 person's registration as provided in Section 66-5-236 NMSA
23 1978.

24 F. The department shall notify the superintendent of
25 insurance if an insurance carrier fails to provide monthly

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1 reports to the department regarding motor vehicle insurance
2 policy information as required by Subsection D of this
3 section."

4 Section 4. Section 66-5-229 NMSA 1978 (being Laws 1978,
5 Chapter 35, Section 318, as amended) is amended to read:

6 "66-5-229. DURATION OF EVIDENCE--WHEN FILING OF EVIDENCE
7 MAY BE WAIVED--PENALTY.--

8 A. The department shall, upon request, consent to the
9 immediate cancellation of any bond or the department shall
10 direct and the state treasurer shall return to the person
11 entitled thereto any money deposited pursuant to the Mandatory
12 Financial Responsibility Act as evidence of financial
13 responsibility or the department shall waive the requirement of
14 filing evidence of financial responsibility in any of the
15 following events:

16 (1) after one year of providing satisfactory
17 evidence as specified in Section 66-5-218 NMSA 1978;

18 (2) the death of the person on whose behalf
19 evidence was filed or the permanent incapacity of the person to
20 operate a motor vehicle; or

21 (3) the person who has filed evidence surrenders
22 [~~his~~] the person's license and registration to the department.

23 B. [~~Provided, however, that~~] The department shall not
24 consent to the cancellation of any bond or the return of any
25 money or waive the requirement of filing evidence of financial

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1 responsibility in the event any action for damages upon a
2 liability covered by the evidence is then pending or any
3 judgment upon any such liability is then unsatisfied or in the
4 event the person who has filed the bond or deposited the money
5 has, within one year immediately preceding the request, been
6 involved as a driver or owner in any motor vehicle accident
7 resulting in injury or damage to the person or property of
8 others. An affidavit of the applicant as to the nonexistence
9 of such facts or that ~~he~~ the applicant has been released from
10 all of ~~his~~ the applicant's liability or has been finally
11 adjudicated not to be liable for such injury or damage shall be
12 sufficient evidence thereof in the absence of evidence to the
13 contrary in the records of the department.

14 C. Every owner or operator of a vehicle subject to
15 the requirements of the Mandatory Financial Responsibility Act
16 shall carry evidence of financial responsibility as defined by
17 that act in the vehicle at all times while the vehicle is in
18 operation on the highways of this state. The failure to comply
19 with this subsection shall be a misdemeanor and shall be
20 punishable by the penalty set forth in Section 66-8-7 NMSA
21 1978; provided that a law enforcement officer shall not charge
22 a person with a violation of this section if the officer can
23 verify the person's compliance with the Mandatory Financial
24 Responsibility Act by checking a computer database of motor
25 vehicle information immediately available to the officer; and

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1 provided further that no person charged with violating this
2 section shall be convicted if [~~he~~] the person produces in court
3 evidence of financial responsibility valid at the time of
4 issuance of the citation."

5 Section 5. Section 66-8-116 NMSA 1978 (being Laws 1978,
6 Chapter 35, Section 524, as amended) is amended to read:

7 "66-8-116. PENALTY ASSESSMENT MISDEMEANORS--
8 DEFINITION--SCHEDULE OF ASSESSMENTS.--

9 A. As used in the Motor Vehicle Code, "penalty
10 assessment misdemeanor" means violation of any of the following
11 listed sections of the NMSA 1978 for which, except as provided
12 in Subsection D of this section, the listed penalty assessment
13 is established:

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Permitting unlicensed		
minor to drive	66-5-40	\$ 10.00
Failure to obey sign	66-7-104	10.00
Failure to obey signal	66-7-105	10.00
Speeding	66-7-301	
(1) up to and including		
ten miles an hour		
over the speed limit		15.00
(2) from eleven up to		
and including fifteen		

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1	miles an hour		
2	over the speed limit		30.00
3	(3) from sixteen up to		
4	and including twenty		
5	miles an hour over the		
6	speed limit		65.00
7	(4) from twenty-one up to		
8	and including twenty-five		
9	miles an hour		
10	over the speed limit		100.00
11	(5) from twenty-six up to		
12	and including thirty		
13	miles an hour over the		
14	speed limit		125.00
15	(6) from thirty-one up to		
16	and including thirty-five		
17	miles an hour over the		
18	speed limit		150.00
19	(7) more than thirty-five		
20	miles an hour over the		
21	speed limit		200.00
22	Unfastened safety belt	66-7-372	25.00
23	Child not in restraint device		
24	or seat belt	66-7-369	25.00
25	Minimum speed	66-7-305	10.00

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1	Speeding	66-7-306	15.00
2	Improper starting	66-7-324	10.00
3	Improper backing	66-7-354	10.00
4	Improper lane	66-7-308	10.00
5	Improper lane	66-7-313	10.00
6	Improper lane	66-7-316	10.00
7	Improper lane	66-7-317	10.00
8	Improper lane	66-7-319	10.00
9	Improper passing	66-7-309 through 66-7-312	10.00
10	Improper passing	66-7-315	10.00
11	Controlled access		
12	violation	66-7-320	10.00
13	Controlled access		
14	violation	66-7-321	10.00
15	Improper turning	66-7-322	10.00
16	Improper turning	66-7-323	10.00
17	Improper turning	66-7-325	10.00
18	Following too closely	66-7-318	10.00
19	Failure to yield	66-7-328 through 66-7-331	10.00
20	Failure to yield	66-7-332	50.00
21	Failure to yield	66-7-332.1	25.00
22	Pedestrian violation	66-7-333	10.00
23	Pedestrian violation	66-7-340	10.00
24	Failure to stop	66-7-342 and 66-7-344	
25		through 66-7-346	10.00

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1	Railroad-highway grade		
2	crossing violation	66-7-341 and 66-7-343	10.00
3	Passing school bus	66-7-347	100.00
4	Failure to signal	66-7-325 through 66-7-327	10.00
5	Failure to secure load	66-7-407	100.00
6	Operation without oversize-		
7	overweight permit	66-7-413	50.00
8	Improper equipment	66-3-801	10.00
9	Improper equipment	66-3-901	20.00
10	Improper emergency		
11	signal	66-3-853 through 66-3-857	10.00
12	Operation interference	66-7-357	5.00
13	Littering	66-7-364	300.00
14	Improper parking	66-7-349 through 66-7-352	
15		and 66-7-353	5.00
16	Improper parking	66-3-852	5.00
17	Failure to dim lights	66-3-831	10.00
18	Riding in or towing		
19	occupied house trailer	66-7-366	5.00
20	Improper opening of doors	66-7-367	5.00
21	No slow-moving vehicle		
22	emblem or flashing		
23	amber light	66-3-887	5.00
24	Open container - first		
25	violation	66-8-138	25.00

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1 Uninsured motor vehicle 66-5-205 150.00.

2 B. The term "penalty assessment misdemeanor" does not
3 include a violation that has caused or contributed to the cause
4 of an accident resulting in injury or death to a person.

5 C. When an alleged violator of a penalty assessment
6 misdemeanor elects to accept a notice to appear in lieu of a
7 notice of penalty assessment, a fine imposed upon later
8 conviction shall not exceed the penalty assessment established
9 for the particular penalty assessment misdemeanor and probation
10 imposed upon a suspended or deferred sentence shall not exceed
11 ninety days; provided that a fine imposed upon a later
12 conviction for a violation of Section 66-5-205 NMSA 1978 shall
13 not be less than the penalty assessment established in
14 Subsection A of this section for a violation of Section
15 66-5-205 NMSA 1978, nor shall the fine be suspended, deferred
16 or taken under advisement.

17 D. The penalty assessment for speeding in violation
18 of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978
19 is twice the penalty assessment established in Subsection A of
20 this section for the equivalent miles per hour over the speed
21 limit."

22 Section 6. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2007.

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